# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

## SPECIAL CIVIL APPLICATION No. 10077 of 2000

**For Approval and Signature:**

**HON'BLE MR JUSTICE KS JHAVERI**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**GUJARAT STATE ROAD TRANSPORT CORPORATION - Petitioner(s)**

**Versus**

**RAJAKBINA ARAB - Respondent(s)**

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**Appearance :**

MR SAURABH J MEHTA for Petitioner No(s).: 1.

MR AV PRAJAPATI for Respondent No(s).: 1.

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**CORAM :HON'BLE MR JUSTICE KS JHAVERI**

**Date : 28/06/2005**

**ORAL JUDGMENT**

1.0 The petitioner herein has challenged the order dated 14.02.2000 passed in Reference (LCJ) No.209 of 1998,

whereby the said reference was allowed.

2.0 The brief facts of the case are that the respondent was working as a Conductor with the petitioner Corporation. On 23.09.1993, while the respondent was on duty, the bus was checked by the checking squad of the petitioner Corporation and certain irregularities were found in the issuance of tickets. Charge sheet was issued to the respondent and departmental inquiry was held against him. Show cause notice was issued to the respondent on 07.01.1995 to show cause as to why the respondent should not be dismissed from service for his misconduct. The petitioner replied to the said Notice. On 02.03.1995, the competent authority passed an order for dismissal of the respondent from the services of the petitioner Corporation.

2.1 Appeal was preferred against the said order, which was also dismissed by the First Appellate Authority on 11.01.1996. The Second Appellate Authority of the petitioner Corporation dismissed the second appeal of the respondent on 22.09.1997.

2.2 Being aggrieved by the said order, the respondent preferred reference being Reference (LCJ) No.209 of 1998 before the Labour Court, Junagadh. The Labour Court, Junagadh by order dated 14.02.2000 allowed the reference of the respondent. Hence, this petition.

3.0 Mr. A V Prajapati learned advocate for the respondent has requested that considering the past services of the respondent, the date of dismissal of the respondent be treated as the date of his voluntary retirement.

4.0 I have heard learned counsel for the parties and perused the documents placed on record. In view of the request made by the learned advocate for the respondent, I am of the opinion that the said request can be granted since it would not cause any irreparable loss to the petitioner Corporation.

5.0 In above view of the matter, the petitioner Corporation is directed to treat the respondent as if he has voluntarily resigned from the service on 02.03.1995, i. e. the date on which he was dismissed from the service. The petitioner Corporation shall accept the resignation of the respondent as if he has voluntarily resigned from the service on 02.03.1995 and shall also pay all the retirement benefits to the respondent workman. However, it is clarified that the benefits which have already been received by the respondent u/s.17(b) of the Industrial Disputes Act, 1947 shall be adjusted against the payments which are required to be made by the petitioner. The impugned order of the Labour Court is accordingly substituted by this order. The petition stands disposed of accordingly. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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